



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2015-0832; FRL-9968-21-Region 6]

#### **Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for Volatile Organic Compound Emissions in the Dallas-Fort Worth Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or ACT), the Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP) submitted by the State of Texas through the Texas Commission on Environmental Quality (TCEQ) on July 10, 2015. The Texas SIP submission revises rules for control of volatile organic compounds (VOC) to assist the Dallas-Fort Worth (DFW) moderate nonattainment area (NAA) in attaining the 2008 eight-hour ozone (O<sub>3</sub>) National Ambient Air Quality Standards (NAAQS). The submission includes Wise County, a county added as part of the 2008 ozone moderate NAA area. We are proposing to approve the submitted rules as part of the DFW 2008 ozone SIP and as meeting Reasonably Available Control Technology (RACT). We are also proposing to approve negative declarations for certain source categories subject to RACT in the DFW moderate NAA.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2015-0832, at <http://www.regulations.gov> or via email to [todd.robert@epa.gov](mailto:todd.robert@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from

Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Mr. Robert M. Todd, (214) 665-2156, [todd.robert@epa.gov](mailto:todd.robert@epa.gov).

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

**FOR FURTHER INFORMATION CONTACT:** Robert M. Todd, (214) 665-2156, [todd.robert@epa.gov](mailto:todd.robert@epa.gov). To inspect the hard copy materials, please contact Mr. Todd or Mr. Bill Deese (214) 665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” means the EPA.

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# **I. Background on DFW 2008 Eight-Hour O<sub>3</sub> NAA Designation and Classification**

On March 27, 2008, the EPA revised the primary and secondary O<sub>3</sub> standard to a level of 75 parts per billion (ppb). Promulgation of a NAAQS triggers a requirement for the EPA to designate areas as nonattainment, attainment, or unclassifiable, and to classify the NAAs at the time of designation.

On May 21, 2012, the EPA established initial area designations for most areas of the country with respect to the 2008 primary and secondary eight-hour O<sub>3</sub> NAAQS. The EPA published two rules addressing final implementation<sup>1</sup> and air quality designations.<sup>2</sup> The implementation rule established classifications, associated attainment deadlines, and revoked the 1997 O<sub>3</sub> standards for transportation conformity purposes. The designation rule finalized the NAA boundaries for areas that did not meet the 75 ppb standard. Furthermore, the finalized

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<sup>1</sup> See 77 FR 30160 "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes."

<sup>2</sup> See 77 FR 30088, "Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards."

boundaries were classified according to the severity of their O<sub>3</sub> air quality problems as determined by each area's design value.<sup>3</sup> The O<sub>3</sub> classification categories were defined as Marginal, Moderate, Serious, Severe, or Extreme.

Effective July 20, 2012, the DFW 2008 eight-hour O<sub>3</sub> NAA was classified as moderate, consisting of ten counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise County. With the exception of Wise County, all of these counties were designated as nonattainment with a serious classification under the 1997 O<sub>3</sub> standard. Although the DFW NAA was most recently classified as moderate, the first nine counties are still required to meet their more stringent serious classification requirements previously designated under the 1997 O<sub>3</sub> standard. Wise County, however, is required to meet the moderate classification requirements since it is newly designated as nonattainment for the DFW area.<sup>4</sup> Previously, Wise County was classified as an attainment area and was exempt from the O<sub>3</sub> NAA requirements under the 1997 eight-hour O<sub>3</sub> standard.

States are required to adopt control measures that implement Reasonably Available Control Technology (RACT) on major sources of VOC emissions. The major source emission threshold level for the first nine counties (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant) remains at a potential to emit (PTE) of 50 tons per year (tpy) VOC based on its serious classification under the 1997 standard. The major source threshold in Wise County is 100 tpy VOC based on the moderate classification requirement.

## **II. Background on Chapter 115 Proposed Rule Revisions**

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<sup>3</sup> The air quality design value for the 8-hour ozone NAAQS is the three-year average of the annual fourth highest daily maximum eight-hour average ozone concentration. See 40 CFR part 50, appendix I.

<sup>4</sup> In pursuant to the United States Court of Appeals for the District of Columbia Circuit ruling in favor of the EPA's inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area as lawful (see USCA Case #12-1309).

On July 10, 2015 the EPA received the TCEQ's submitted rule revisions to 30 TAC, Chapter 115 "Control of Air Pollution from Volatile Organic Compounds." The State revised Chapter 115 for all major sources of VOC in the 2008 DFW O<sub>3</sub> NAA for the implementation of RACT requirements in all counties as required by CAA, section 172(c)(1) and section 182(f). The state previously adopted Chapter 115 VOC rules for sources in the DFW area as part of the SIP submitted on May 30, 2007, for the 1997 eight-hour O<sub>3</sub> standard. The EPA approved those rules on January 14, 2009.<sup>5</sup> The scope of the Chapter 115 rule revisions implement the following:<sup>6</sup>

- Add VOC emission limits and control requirements to major sources in newly designated Wise County.
- Amend VOC emissions control requirements in the DFW NAA;
- Amend testing, monitoring and recordkeeping requirements for VOC sources in the DFW NAA;
- Amend exemptions from VOC control requirements in the DFW NAA;
- Amend compliance schedules for affected sources in the DFW NAA, including adding new compliance date of January, 2017 for newly affected sources in Wise County;
- Add definitions to reflect the change in attainment status of Wise County;

A complete summary along with all non-substantive changes pertaining to reformatting, restructuring, reorganizing, and administrative revisions will be referenced in the Technical Support Document (TSD), "2008 8-Hour Ozone Nonattainment Area VOC SIP Demonstration and Reasonably Available Control Technology for Volatile Organic Compounds Sources in the

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<sup>5</sup> See 74 FR 1903.

<sup>6</sup> This is not an exhaustive list of changes to the 30 TAC Chapter 115 rules. For a complete summary of all Chapter 115 sections associated with this SIP revision, please refer to the Technical Support Document (TSD), a copy of which is posted in the docket of this proposal.

Dallas-Fort Worth 2008 8-Hour Ozone Nonattainment Area” a copy of which is posted in the docket of this proposal.

Table 1 contains a list of the new sections of Chapter 115 with adopted subchapters, divisions, and key sections associated with the July 10, 2015 DFW 2008 eight-hour O<sub>3</sub> SIP submittal.

Table 1: Proposed New Sections of 30 TAC Chapter 115 to be added to the Texas SIP

Description and Sections of 30 TAC Chapter 115 Proposed New Section	
Description	Section
Subchapter E: Division 1	§§115.410, 115.411

Table 2 contains a list of the sections of Chapter 115 with adopted subchapters, divisions, and key sections with modifications associated with the July 10, 2015 DFW 2008 eight-hour O<sub>3</sub> SIP submittal.

Table 2: Proposed Amended Sections of 30 TAC Chapter 115 in the Texas SIP

Description and Sections of 30 TAC Chapter 115 Proposed Modified Sections	
Description	Section
Subchapter A: Definitions	§115.10
Subchapter B: Division 1	§§115.110 - 115.112, 115.114, 115.115, 115.117 - 115.119
Subchapter B: Division 2	§§115.121, 115.122. 115.125 - 115.127, 115.129
Subchapter B: Division 3	§115.139
Subchapter C: Division 1	§115.215, §115.219
Subchapter C: Division 2	§115.229
Subchapter C: Division 3	§115.239
Subchapter D: Division 3	§115.359
Subchapter E: Division 1	§§115.415, 115.416, 115.419
Subchapter E: Division 2	§§115.420 - 115.423, 115.425 - 115.427, 115.429
Subchapter E: Division 4	§§115.440 - 115.442, 115.446, 115.449
Subchapter E: Division 5	§§115.450, 115.451, 115.453, 115.459
Subchapter E: Division 6	§§115.460, 115.461, 115.469
Subchapter E: Division 7	§§115.471, 115.473, 115.479
Subchapter F: Division 1	§115.519

Table 3 contains a section of Chapter 115 proposed for repeal from the SIP by the TCEQ, along with the relevant identifying subchapter and division.

Table 3: Proposed Sections of 30 TAC Chapter 115 to be deleted from the Texas SIP

Description and Sections of 30 TAC Chapter 115 Proposed Repealed Section	
Description	Section
Subchapter E: Division 1	§115.417 <sup>7</sup>

### III. Evaluation of Texas' Proposed Chapter 115 VOC Control SIP

Previous Chapter 115 modifications addressed TCEQ's plan to comply with the 1997 eight-hour O<sub>3</sub> attainment standard and RACT requirements for 9 counties in the DFW area and were approved into the state's SIP on January 14, 2009 (74 FR 1903). We are not proposing to alter that determination. As described above, the DFW NAA for the 2008 O<sub>3</sub> standard now includes Wise County along with the other 9 counties in the area.

In today's action, we are proposing to approve revisions for TCEQ rule changes as part of the DFW moderate NAA area that would extend these same control requirements to sources in Wise County. The TCEQ provided information addressing the applicability of Chapter 115, Control of Air Pollution from Volatile Organic Compounds Regulations to sources with emissions equal to or greater than 100 tpy of VOCs in Wise County.

A complete evaluation of the TCEQ rules changes can be found in the TSD to this proposal that is included in the official docket. The changes TCEQ made includes ministerial changes as well as substantive ones such as the addition of control requirements that apply to sources in Wise County.

### IV. Reasonably Achievable Control Technology in the DFW NAA.

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<sup>7</sup> The content of §115.417 detailed exemptions to Chapter 115 requirements. These exemptions were moved to the new §115.411. This action reorders existing, approvable exemptions and does not alter the expected VOC control levels in the DFW NAA.

As noted above, the TCEQ's July 12, 2015, submission included a RACT demonstration that VOC control measures in 30 TAC Chapter 115 applied to major sources in the DFW moderate NNA, including Wise County. The TCEQ also provided information addressing the applicability of Control Technology Guidelines (CTG) and Alternative Control Technology (ACT) documents for VOC sources with emissions equal to or greater than 100 tpy of VOCs in Wise County. The TCEQ also provided negative declaration information for certain of these source categories in Wise County. Furthermore, the TCEQ demonstrated that any major source in the DFW NNA not covered by a CTG or ACT is controlled and meets RACT and that the negative declarations provided by the TCEQ and addressed in detail in the TSD to this proposal, are approvable.

The requirements for RACT are included in 182(b)(2) of the Act and further explained in our "SIP Requirements Rule" of March 6, 2015 (80 FR 12279), which explains States should refer to existing CTGs and ACT documents as well as all relevant technical information including recent technical information received during the public comment period to determine if RACT is being applied. States may conclude, in some cases, that sources already addressed by RACT determinations to meet the 1-Hour and/or the 1997 8-Hour O<sub>3</sub> NAAQS do not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement. See 40 CFR 51.1112. The EPA has previously found that Texas VOC rules meet RACT for the 1-Hour and the 1997 8-Hour standards. See 74 FR 1903, January 14, 2009 and 80 FR 16291, March 27, 2015.

We have reviewed the emission limitations and control requirements detailed in 30 TAC Chapter 115 and compared them against EPA's CTG documents and guidelines. Based on our review and evaluation, we found the emission limitations and control requirements in 30 TAC



Chapter 115 apply to the source categories covered by our guidance and CTG documents, and that the corresponding sections in 30 TAC Chapter 115 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Also, the TCEQ demonstrated that any major source in the DFW NNA not covered by a CTG or ACT is controlled and meets RACT.

Based on the above evaluation, we are proposing to determine that the applicable emission limitations and control requirements in 30 TAC Chapter 115 represent RACT under the 2008 8-Hour ozone NAAQS.

A complete evaluation of how the TCEQ rules meet the requirements of the EPA's CTGs, ACTs and RACT requirements can be found in the TSD to this proposal that is included in the official docket. In particular, see pages 13 – 21 of the TSD.

## **V. The EPA's Proposed Action**

The EPA is proposing to approve the submitted TAC Chapter 115 SIP revisions into the SIP because these revisions will assist the DFW area reach attainment under the 2008 8-Hour O<sub>3</sub> NAAQS by reducing VOC emissions for affected sources in the DFW area. The EPA is proposing to approve all revisions for the amended, repealed, and new sections of Chapter 115 that are being submitted for inclusion into the SIP. The EPA is also making a determination that the TCEQ rules included in these revisions will meet the RACT requirements of the CAA §182(b) for the 2008 O<sub>3</sub> NAAQS. We are also making a determination that the negative declarations provided by the TCEQ are approvable.

## **VI. Incorporation by Reference**

In this action, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is

proposing to incorporate by reference revisions to the Texas regulations as described in the Proposed Action section above. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the EPA Region 6 office.

## VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), 13563 (76 FR 3821, January 21, 2011) and 13771 (82 FR 9339, February 2, 2017);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2017.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

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